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STATE OF CONNECTICUT  
DEPARTMENT OF REVENUE SERVICES

PS 2004(1)

POLICY STATEMENT

Income Tax Withholding for Athletes or Entertainers

**Purpose:** This Policy Statement describes new forms required to be used by designated withholding agents when reporting and paying over Connecticut income tax withholding to the Connecticut Department of Revenue Services (DRS). This Policy Statement also describes the requirements for income tax withholding from payments made to performers or performing entities on income derived from Connecticut sources, as required by Connecticut income tax regulations. This Policy Statement modifies and supersedes the requirements described in **Policy Statement 2003(5), Income Tax Withholding for Athletes and Entertainers**.

**Background:** DRS requires each designated withholding agent to withhold Connecticut income tax from a payment for personal services made to an athlete or entertainer (or his or her agent) who is not considered an employee of the designated withholding agent for federal income tax withholding purposes. Under these requirements, the athlete or entertainer is treated as an employee, and the designated withholding agent is treated as the employer of the athlete or entertainer, for Connecticut income tax withholding purposes. Consequently, the designated withholding agent must register with DRS to withhold Connecticut income tax, withhold Connecticut income tax from the payment made to the athlete or entertainer (or his or her agent), and then pay over the Connecticut income tax to, and file the Connecticut withholding tax returns with, DRS as described below.

**Effective Date:** Effective January 1, 2004, and applicable to payments made on or after that date.

**Statutory Authority:** Conn. Gen. Stat. §12-705 and Conn. Agencies Regs. §12-705(b)-1.

**Definitions:** As used in this Policy Statement: **Designated withholding agent** means a Connecticut venue, or lessee of a Connecticut venue, that contracts to pay performers or performing entities for services performed in Connecticut and has been designated as a withholding agent by DRS. A promoter may be designated as a withholding agent by DRS. If there is more than one promoter, the promoters may agree among themselves, subject to the approval of DRS, which one of them is to be the designated withholding agent.

**Performer** means an athlete, including but not limited to, a wrestler, boxer, golfer, tennis player, or other athlete, as well as a referee or trainer, or an entertainer, including but not limited to, an actor, singer, musician, dancer, circus performer,

comedian, public speaker, as well as a writer, director, set designer, or member of a sound or light crew.

**Public speaker** does not include a speaker who (1) is engaged as part of a course offered by an educational institution or (2) is part of an educational or academic conference, seminar, or symposium sponsored by the educational institution and is paid \$5,000 or less for such engagement (*see* FOURTH EXCEPTION, on Page 4).

**Performing entity** means any corporation, partnership, limited partnership, or limited liability company that employs or engages one or more performers.

**Resident individual** means an individual who is a resident of this state, as defined in Conn. Gen. Stat. §12-701(a)(1). In general, a resident individual is either an individual who is domiciled in Connecticut or, if not domiciled in Connecticut, an individual who maintains a permanent place of abode in Connecticut and spends in the aggregate more than 183 days of the taxable year in Connecticut.

**Nonresident individual** means a nonresident of this state, as defined in Conn. Gen. Stat. §12-701(a)(2). In general, a nonresident individual is an individual who is not domiciled in Connecticut, and who does not maintain a permanent place of abode in Connecticut and does not spend in the aggregate more than 183 days of the taxable year in Connecticut.

**Educational institution** means (1) any institution, not conducted for profit, duly authorized under the laws of the State of Connecticut to award degrees, (2) any public elementary or secondary school, or (3) any nonpublic elementary or secondary school, not conducted for profit.

**New Forms Required to be Used by Designated Withholding Agents:**

- A designated withholding agent whose total annual Connecticut income tax withholding is **\$1,000 or more**, and who was previously required to file **Form CT-941, Connecticut Quarterly Reconciliation of Withholding**, to show all amounts withheld on behalf of performers or performing entities during the calendar quarter and to pay over Connecticut income tax withholding, will now file **Form CT-8109, Connecticut Withholding Tax Payment Form for Nonpayroll Amounts**. In addition, such designated withholding agent must also complete **Form CT-945, Connecticut Annual Reconciliation of Withholding for Nonpayroll Amounts**, showing all amounts withheld on behalf of performers or performing entities during the calendar year.

- A designated withholding agent whose total annual Connecticut income tax withholding is **less than \$1,000**, and was previously permitted by DRS to file one **Form CT-941** covering the entire year, will now file one **Form CT-945** and pay over Connecticut income tax withheld during the calendar year.
- Designated withholding agents will continue to use **Form CT-1096**, *Connecticut Annual Summary and Transmittal of Information Returns*, to report total payments made to performers or performing entities, total Connecticut income tax withheld, and the number of federal Forms 1099-MISC submitted to DRS.
- Designated withholding agents will use **Form CT-941X**, *Amended Reconciliation of Withholding*, to correct errors made on Form CT-945.

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### **General Rules for Withholding Tax at Source of Payment:**

A designated withholding agent that contracts to pay a performer or performing entity for services performed in Connecticut is required to withhold Connecticut income tax at the source of payment at the rate of 5% (.05) of the gross payment to the performer or performing entity, unless:

- The payment by the designated withholding agent to the performer or performing entity for the performance is \$1,000 or less (*see FIRST EXCEPTION, at right*);
- DRS grants a request for reduced withholding (*see SECOND EXCEPTION, on Page 3*);
- A request for a waiver of withholding is made, and, if required, DRS grants the request (*see THIRD EXCEPTION, on Page 3*); **or**
- The designated withholding agent is an educational institution; the payment is made by the educational institution to a speaker engaged either as part of a course offered by the educational institution, or as part of an educational or academic conference, seminar, or symposium sponsored by the educational institution; and the payment for the engagement is \$5,000 or less (*see FOURTH EXCEPTION, on Page 4*).

If a performance of a performer or performing entity is taped or filmed, the taping or filming of the performance in Connecticut makes these rules applicable, whether or not the taped or filmed performance will be televised or broadcasted to an audience in Connecticut.

The following examples illustrate the application of these requirements and the designated withholding agent's responsibility to withhold:

**Example 1:** A payment made by a designated withholding agent to a performer (or his or her agent) for services performed in Connecticut is subject to these withholding requirements.

**Example 2:** A payment made by a designated withholding agent to an independent contractor such as a nonresident owner of a band, orchestra, theater troupe, dance troupe, circus, or other similar performing entity for services

performed in Connecticut is subject to these withholding requirements.

**Example 3:** A payment made to a supporting act, where the designated withholding agent negotiates a contract with a headliner and, under the contract, the designated withholding agent is to pay the headliner and the headliner is to pay the supporting act, is subject to these withholding requirements. It is the designated withholding agent's responsibility to ensure that Connecticut income tax is withheld from the payment to the supporting act and paid over to DRS.

**Example 4:** A payment made for sound and light services provided by nonresidents is subject to these withholding requirements.

**Example 5:** A payment made by a designated withholding agent to a promoter who, in turn, pays a performer or performing entity with whom he or she has contracted to perform at a Connecticut venue is subject to these withholding requirements.

**Example 6:** A payment made by a designated withholding agent to a performer who is not a citizen or resident of the United States for services performed in Connecticut is subject to these withholding requirements. (This is the case even if a tax treaty between the United States and the performer's country does not subject the payment to federal income tax. A performer's federal Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding, does not exempt the designated withholding agent and the performer from these withholding requirements, and the performer is subject to Connecticut income tax).

**Contracts That Prohibit Withholding:** Conn. Agencies Regs. §12-705(b)-1 supersedes any provision in a performer's or performing entity's contract that provides that Connecticut income tax should not be withheld. Therefore, Connecticut income tax must still be withheld from a payment to the performer or performing entity for the performance.

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### **FIRST EXCEPTION — Payment of \$1,000 or less**

**for a performance:** Where a performer or performing entity is paid \$1,000 or less for a performance (or series of performances) by a designated withholding agent, the performer or performing entity will not be required to request a waiver of withholding from DRS (*see THIRD EXCEPTION, on Page 3*), and the designated withholding agent will not be required to withhold Connecticut income tax from the payment to the performer or performing entity. If there is a subsequent performance (or series of performances) for which the performer or performing entity is paid \$1,000 or less, the performer or performing entity will still not be required to request a waiver of withholding from DRS, and the designated withholding agent will still not be required to withhold Connecticut income tax from the payment to the performer or performing entity. The fact that Connecticut income tax may not have been withheld from a payment to a performer or performing entity does not affect the performer's liability for Connecticut income tax.

**SECOND EXCEPTION — Request for reduced withholding:** Where a performer or performing entity believes that 5% (.05) of a payment by a designated withholding agent to the performer or performing entity is likely to exceed by a significant amount the Connecticut income tax liability of the performer, the performer or performing entity may request reduced Connecticut income tax withholding by completing **Form CT-588, *Athlete or Entertainer Request for Reduced Withholding***. The form should be sent or faxed to: **Department of Revenue Services, Audit Division, Entertainment Withholding Section, 25 Sigourney Street, Hartford CT 06106 (Fax: 860-541-4599)**. The form must be received by DRS at least 14 calendar days before the date on which payment will be made for the performance. DRS will either grant or deny the request, and will give notice of its decision by issuing **Form CT-595, *Notice to Designated Withholding Agent***, to the designated withholding agent and to the performer or performing entity. If DRS grants a request for reduced withholding, DRS will indicate on Form CT-595 the amount of Connecticut income tax that must be withheld by the designated withholding agent and paid over to DRS.

If a designated withholding agent has not received Form CT-595 on or before the date that payment is made to the performer or performing entity, the designated withholding agent should presume the request has been denied and withhold Connecticut income tax at a rate of 5% (.05) of the gross payment to the performer or performing entity. If the designated withholding agent still has not received Form CT-595 on or before the date that is two weeks before the due date of **Form CT-8109, *Connecticut Withholding Tax Payment Form for Nonpayroll Amounts***, for the calendar quarter, the designated withholding agent or the performer or performing entity may call **DRS Audit Division, Entertainment Withholding Section**, at **860-541-4550** for information on the status of the request. The designated withholding agent may be instructed by DRS to return any excess amounts withheld to the performer or performing entity.

**THIRD EXCEPTION — Request for waiver of withholding:** Where a performer or performing entity fits within one or more of the categories described below, the performer or performing entity may request a waiver of Connecticut income tax withholding by completing **Form CT-590, *Athlete or Entertainer Request for Waiver of Withholding***. In certain instances described below, the form must be submitted to DRS, and DRS must either grant or deny the request. In other instances described below, the form need not be submitted to DRS, but must be retained by the designated withholding agent for no less than four years after the date of the performance.

**Where Form CT-590 Must Be Submitted to DRS:** Form CT-590 must be submitted to DRS in either of the following two circumstances:

- *Nonresident performer with annual Connecticut source income of \$3,000 or less.* The performer requesting the

waiver is a nonresident individual who expects to be paid \$3,000 or less during the calendar year (including any payment or payments by the designated withholding agent and by any other person) for services performed in Connecticut. If subsequent payments during the calendar year to the performer result in the performer being paid, in the aggregate, more than \$3,000 during the calendar year for services performed in Connecticut, the performer may not request a waiver of withholding from that point forward until the end of the calendar year. “Catch up” withholding will not be required for a performer who reasonably believed that payments to him or her for services performed in Connecticut for the calendar year would not exceed \$3,000, but who subsequently is paid more than \$3,000 for services performed in Connecticut for the calendar year. However, the performer remains subject to Connecticut income tax on all payments made to him or her for services performed in Connecticut for the calendar year.

- *Performing entity registered as employer.* The performing entity requesting the waiver is registered with DRS to withhold Connecticut income tax as an employer and has a satisfactory record of filing all required Connecticut tax returns and paying all required Connecticut taxes.

Form CT-590 should be sent or faxed to: **Department of Revenue Services, Audit Division, Entertainment Withholding Section, 25 Sigourney Street, Hartford CT 06106 (Fax: 860-541-4599)**. The form must be received by DRS at least 14 calendar days before the date on which payment will be made for the performance. DRS will either grant or deny the request, and will give notice of its decision by issuing a Form CT-595 to the designated withholding agent and to the performer or performing entity. If a designated withholding agent has not received Form CT-595 on or before the date that payment is made to the performer or performing entity, the designated withholding agent should presume the request has been denied and withhold Connecticut income tax at a rate of 5% (.05) of the gross payment to the performer or performing entity. If the designated withholding agent or performer or performing entity still has not received Form CT-595 on or before the date that is two weeks before the due date of Form CT-8109 for the calendar quarter, the designated withholding agent or the performer or performing entity may call **DRS Audit Division, Entertainment Withholding Section**, at **860-541-4550** for information on the status of the request. The designated withholding agent may be instructed by DRS to return any excess amounts withheld to the performer or performing entity.

**Where Form CT-590 Need Not Be Submitted to DRS but Must Be Retained by the Designated Withholding Agent:** A designated withholding agent is not required to withhold Connecticut income tax from a payment being made to a performer or performing entity in any of the following three circumstances, as long as Form CT-590 has been signed and dated by the performer or performing entity and the form is taken in good faith by the designated withholding agent:



- *Resident performer.* The performer requesting the waiver is a resident individual who has a satisfactory record of filing all required Connecticut tax returns and paying all required Connecticut taxes and has made any required estimated Connecticut income tax payments for the current taxable year.
- *Employee of designated withholding agent.* The performer requesting the waiver is an individual who is treated, for federal income tax withholding purposes, by the designated withholding agent as an employee of the designated withholding agent, and the designated withholding agent has a satisfactory history of filing all required Connecticut tax returns and paying all required Connecticut taxes.
- *Performing entity continuously maintains, occupies, and uses an office in Connecticut.* The performing entity requesting the waiver is a corporation, partnership, limited partnership, or limited liability company that has a satisfactory record of filing all required Connecticut tax returns and paying all required Connecticut taxes and has an office in Connecticut, and the office is continuously maintained, occupied, and used by the corporation, partnership, limited partnership, or limited liability company's regular employees who are regularly in attendance to carry on its business in its own name.

#### **FOURTH EXCEPTION — Payment of \$5,000 or less by an educational institution to certain speakers:**

Where an educational institution is a designated withholding agent and a speaker is engaged as part of a course offered by the educational institution or as part of an educational or academic conference, seminar, or symposium sponsored by the educational institution and the speaker is paid \$5,000 or less for the engagement by the educational institution, the educational institution will not be required to withhold Connecticut income tax from the payment to the speaker and the speaker will not be required to request a waiver of withholding from DRS (*see* THIRD EXCEPTION, on Page 3). The fact that Connecticut income tax may not have been withheld from a payment to a speaker does not affect the speaker's liability for Connecticut income tax.

#### **Annual Withholding Tax Returns for Certain Designated Withholding Agents:**

A designated withholding agent whose total annual Connecticut income tax withholding is **less than \$1,000** will be allowed to file one **Form CT-945**, *Connecticut Annual Reconciliation of Withholding for Nonpayroll Amounts*, covering the entire calendar year, if DRS is satisfied that the collection of taxes will not be jeopardized and notifies the designated withholding agent that it may file one Form CT-945 covering the entire calendar year. The annual Form CT-945 will be required to be filed no later than the last day of January following the end of the calendar year, provided, if the withholding agent is required to withhold Connecticut income tax during only one calendar quarter of the calendar year, DRS will require the annual Form CT-945 to be filed no later than the last day of the month following the end of that calendar quarter.

#### **Summary of Withholding Responsibilities of Designated Withholding Agent:**

1. When paying a performer or performing entity for services performed in Connecticut, a designated withholding agent must withhold 5% (.05) (or less if authorized by DRS) of the gross payment to the payee. A performing entity must determine how much of the aggregate income and Connecticut income tax withholding that will be reported on federal Form 1099-MISC, Miscellaneous Income (or, if the performer or performing entity is a foreign person, federal Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding) that is furnished by the designated withholding agent to the performing entity is attributable to each member or participant and prepare a **Form CT-592, Athlete or Entertainer Withholding Tax Statement**, for each member or participant accordingly. This will facilitate the preparation and processing of each member or participant's Connecticut income tax return.
2. A designated withholding agent must maintain complete records, showing the name of the performer or performing entity, the amount paid to the performer or performing entity, the amount of Connecticut income tax withheld, and the date(s) of performance.
- 3a. **A designated withholding agent whose total annual Connecticut income tax withholding is \$1,000 or more** must complete **Form CT-8109, Connecticut Withholding Tax Payment Form for Nonpayroll Amounts**, showing all amounts withheld on behalf of performers or performing entities during the calendar quarter, and file it on or before the last day of the month following the end of each calendar quarter with DRS. The designated withholding agent must pay over the Connecticut income tax withheld during the calendar quarter when filing Form CT-8109 for the calendar quarter. In addition, such designated withholding agent must also complete **Form CT-945**, showing all amounts withheld on behalf of performers or performing entities during the calendar year.
- 3b. **A designated withholding agent whose total annual Connecticut income tax withholding is less than \$1,000** is permitted by DRS to file one **Form CT-945** covering the entire calendar year and must complete Form CT-945 by showing all amounts withheld on behalf of performers or performing entities during the calendar year, and file it with DRS. The designated withholding agent must pay over the Connecticut income tax withheld during the calendar year when filing Form CT-945 for the calendar year.
4. On or before the last day of February following the end of each calendar year, the designated withholding agent must complete **Form CT-1096, Connecticut Annual Summary and Transmittal of Information Returns**, and file it, along with a duplicate of each federal Form 1099-MISC reporting Connecticut income tax withholding information in Boxes 16 and 18, with DRS. The individual

from whose payment Connecticut income tax was withheld must submit a copy of federal Form 1099-MISC with his or her Connecticut income tax return.

5. This applies only if the designated withholding agent has made a payment to a performer or performing entity that is a foreign person. (A foreign person includes a nonresident alien individual and any other person considered a foreign person under the instructions for federal Form 1042-S). On or before the fifteenth day of March following the end of each calendar year, the designated withholding agent must complete Form CT-1096 and file it, along with a duplicate of each federal Form 1042-S reporting Connecticut income tax withholding information in Boxes 22 through 24, with DRS. The individual from whose payment Connecticut income tax was withheld must submit a copy of federal Form 1042-S with his or her Connecticut income tax return. A designated withholding agent filing both federal Forms 1099-MISC and federal Forms 1042-S must complete a separate Form CT-1096 for the federal Forms 1099-MISC and for the federal Forms 1042-S.

**Penalties And Interest:** A designated withholding agent that fails to pay over the amount of Connecticut income tax that the designated withholding agent was required to withhold from a performer or performing entity is liable for payment of the tax, whether or not the tax was withheld from the performer or performing entity. In addition, the designated withholding agent is liable for penalties and interest on the amount of Connecticut income tax that the designated withholding agent was required to withhold, if that amount is not paid over on or before the due date.

Certain criminal penalties apply if a designated withholding agent willfully violates the law, or if a performer or performing entity willfully makes a statement known to be fraudulent or false in any material matter. Also, any person who is responsible for withholding, truthfully accounting for and paying over Connecticut income tax and who willfully fails to withhold, truthfully account for, or pay over the tax is personally liable for the tax. See Conn. Gen. Stat. §§12-736, 12-737, and 12-738.

**Effect on Other Documents: Policy Statement 2003(5)** is modified and superseded, and may not be relied upon on or after the date of issuance of this Policy Statement.

**Effect of This Document:** A Policy Statement is a document issued by DRS that explains in depth a current position, policy, or practice affecting the tax liability of taxpayers.

**For Further Information:** Call DRS during business hours, Monday through Friday:

- **1-800-382-9463** (in-state), or
- **860-297-5962** (from anywhere)

**TTY, TDD, and Text Telephone users only** may transmit inquiries anytime by calling 860-297-4911.

**Forms and Publications:** Forms and publications are available anytime by:

- **Internet:** Preview and download forms and publications from the DRS Web site at **[www.ct.gov/DRS](http://www.ct.gov/DRS)**
- **DRS TAX-FAX:** Call **860-297-5698** from the handset attached to your fax machine and select from the menu.
- **Telephone:** Call **860-297-4753** (from anywhere), or **1-800-382-9463** (in-state) and select **Option 2** from a touch-tone phone.

**Paperless Filing Methods (fast, easy, free, and confidential):**

- **For business returns:** Use **Fast-File** to file sales and use taxes, business use tax, room occupancy tax, or withholding tax returns over the Internet or telephone. Visit the DRS Web site at **[www.ct.gov/DRS](http://www.ct.gov/DRS)** and click on **File Returns On-Line**.
- **For resident income tax returns:** Use **WebFile** to file personal income tax returns over the Internet. Visit the DRS Web Site at **[www.ct.gov/DRS](http://www.ct.gov/DRS)** and click on **File Returns On-Line**.

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